

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**LIZZETTE CASTRO DE JESÚS**

**Plaintiff**

**v.**

**DR. EDUARDO NIEVES OLABARRIETA**

**Defendant**

**CIVIL NO.:**

**MEDICAL MALPRACTICE  
DAMAGES**

**PLAINTIFF DEMANDS  
TRIAL BY JURY**

**COMPLAINT**

**TO THE HONORABLE COURT:**

**COMES NOW** Plaintiff, Lizzette Castro De Jesús, through her undersigned attorney, and very respectfully Alleges, States and Prays as follows:

**I. PARTIES**

1. The Plaintiff, Mrs. Lizzette Castro De Jesús (hereinafter, "Lizzette"), is of legal age and citizen of Delaware. She is domiciled at 3194 Main St. Frederica DE, 19946.

2. Defendant, Dr. Eduardo Nieves Olabarrieta (hereinafter, "Dr. Nieves"), is a citizen of the Commonwealth of Puerto Rico.

3. Dr. Nieves is a physician specialized in Internal Medicine who, at all relevant dates, provided treatment to Manuel De Jesús De Jesús.

4. Dr. Nieves's office address is: Villas de Río Grande, Calle 6 L2, Río Grande, Puerto Rico 00745.

## **II. JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)1, as there is complete diversity of citizenship between the Plaintiff and Dr. Nieves and the amount of damages exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest, cost and attorney's fees.

6. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, as this action is brought in the judicial district in which the defendant is located and where the acts of medical practice alleged herein took place.

7. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury in this action.

8. The statute of limitations related to all causes of action stated in this Complaint was tolled by the filing of suit on July 19<sup>th</sup>, 2019 in civil case FA2019CV00863 against, among others, defendant Dr. Nieves.

9. Judgment dismissing the case against Dr. Nieves, *without prejudice*, was entered on March 22<sup>nd</sup>, 2020 and notified on March 24<sup>th</sup>, 2020.

10. A letter tolling the statute of limitations was personally served upon Dr. Nieves on March 23<sup>rd</sup>, 2021.

11. A second letter tolling the statute of limitations was personally served upon Dr. Nieves on March 11<sup>th</sup>, 2022.

12. A third letter tolling the statute of limitations was personally served upon Dr. Nieves on February 22<sup>nd</sup>, 2023.

13. As such, the present Complaint is timely filed.

**III. ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

14. Manuel De Jesús (hereinafter, "Manuel") was a 40-year-old male with history of hypertension, end-stage renal disease and hemodialysis.

15. Lizette was Manuel De Jesús' youngest sister.

16. On July 23<sup>rd</sup>, 2018, Manuel arrived at the emergency room of Hospital HIMA San Pablo Fajardo.

17. Manuel was admitted to the Hospital where he was under the care of the internal medicine physician, Dr. Nieves.

18. At all relevant times, Dr. Nieves had medical privileges to work as an internal medicine physician at Hospital HIMA San Pablo Fajardo.

19. During his stay, Manuel was seen by specialty physicians including Infectious Disease, General Surgery, and Nephrology.

20. On July 26<sup>th</sup>, 2018, the Nephrologist, Dr. Cardé, noted that Manuel had "port wine stool per history" and ordered occult blood stool testing, CBC, and type and cross match for blood.

21. On July 26<sup>th</sup>, 2018, Manuel's Hemoglobin had decreased, when compared to his hemoglobin upon arrival on July 23<sup>rd</sup>, 2018.

22. Albeit his decreased hemoglobin, Manuel received surgery for an infected cyst on July 27<sup>th</sup>, 2018.

23. On July 29<sup>th</sup>, 2018, Manuel had continued bleeding and required 2 red blood cell transfusions.

24. On July 29<sup>th</sup>, 2018, Dr. Nieves ordered an IV proton pump inhibitor for presumed GI bleeding, but because of his inability to properly diagnose and intervene on Manuel's acute gastrointestinal hemorrhage, Manuel died on July 30<sup>th</sup>, 2018.

25. Dr. Nieves Olabarrieta deviated from the applicable standard of care in the following ways:

- A. Failure to identify that Manuel had concern for GI bleeding when he was noted to have "port wine stool" identified on July 26<sup>th</sup>, 2018.
- B. Failure to conduct a proper history and physical each day after the abnormal stool was identified to note the presence or absence of signs or symptoms concerning for acute GI bleeding.
- C. Failure to obtain adequate repeat lab tests to trend Hemoglobin and Platelet count.
- D. Failure to list anemia and thrombocytopenia in the problem list on subsequent days and provide a differential diagnosis which included acute hemorrhagic anemia and create a treatment plan.
- E. Failure to consult a gastroenterologist who could have provided definitive intervention for acute GI bleeding.

26. The abovementioned omissions were in violation of the standard of care and are directly related to the death of Manuel.

27. As a result of his negligent acts, Dr. Nieves, is directly and vicariously liable for the emotional damage and distress suffered by Plaintiff Lizzette Castro de Jesús.

28. Mrs. Castro de Jesús was extremely close with her big brother, inasmuch as he was a father figure in her upbringing. Manuel essentially raised her and she has fond memories of him bottle feeding her as a child. Mrs. Castro suffers from anxiety and depression as a result of the grief she feels at the loss of her brother. His unexpected death, at such an early age, has not been something she has been able to overcome to this day. All of her mental pain and anguish are estimated in an amount no less than \$350,000.00 for which Dr. Nieves is directly liable to Plaintiff.

#### **IV. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff very respectfully requests that judgment be entered against the Defendant, adjudging it to be liable to the Plaintiff in an amount no less than \$350,000.00, plus taxable costs, interest from the date of filing of the Complaint, and a reasonable amount in attorney's fees.

In San Juan, Puerto Rico, this 20<sup>th</sup> day of February, 2024.

**GONZÁLEZ, & MARTÍNEZ**

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